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COMMISSION ON HUMAN RIGHTS
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Fifty-second session
Item 4 of the provisional agenda

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The right of everyone to access to drinking water supply and sanitation services

Note by the Secretariat

1. In its decision 1999/107, the Sub-Commission on the Promotion and Protection of Human Rights - having taken note of Commission on Human Rights decision 1999/108 of 27 April 1999, in which the Commission noted that the issue of the right of individuals to drinking water supply and sanitation services remained undefined and therefore decided to request the Sub-Commission to give further consideration to that aspect in preparation for a study - requested Mr. El-Hadji Guissé to supplement his working paper (E/CN.4/Sub.2/1998/7), without financial implications, and to submit it to the Sub-Commission at its fifty-second session.

2. As the working paper prepared by Mr. Guissé pursuant to this request and submitted to the secretariat in May 2000 contained both new information and the text which the Sub-Commission already had before it in document E/CN.4/Sub.2/1998/7, the annex to the present document only contains the new information which supplements the working paper prepared by Mr. Guissé in 1998. This working paper (E/CN.4/Sub.2/1998/7) will, however, again be made available to the Sub-Commission as a background document of the fifty-second session.

Annex

Supplement to the working paper on the promotion of the realization of the right to drinking water supply and sanitation services prepared by Mr. El-Hadji Guissé pursuant to Sub-Commission decision 1999/107

1. The right to drinking water was established in 1999 in Belgian law, which states that everybody has the right of access to drinking water of sufficient quality and quantity for his nourishment, domestic needs and health. The right to drinking water is fully enjoyed by the vast majority of the population in industrialized countries, although there are problems for the most vulnerable. Europe has solemnly adopted the legal principle of access to drinking water for all under its Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Water Courses and International Lakes. Several of the signatories to the protocol, which was adopted in London in 1999, have established new rights, chiefly in favour of the most vulnerable.

2. A number of measures have been taken, including the right to maintenance of the water supply: in Flanders (Belgium), since 1997, every subscriber has had the right to a minimum uninterrupted supply of water for household use. Similar provisions have been adopted in France and Spain. In accordance with national legislation, the judiciary in certain countries has reaffirmed this right to maintenance of the water supply: the right to assistance in paying for water in the event of particular difficulties; the right to a level of charges that does not act as a deterrent to small consumers; the right to free supply; the right to a socially acceptable level of charges; the right to repair of leaking pipes; the right to be connected to the mains.

3. By a resolution on drinking water adopted on 28 April 2000, the Organization for Economic Cooperation and Development (OECD), recalling the Madeira Declaration of 17 April 1999 on the sustainable management of water resources, proposes that Governments and competent international bodies should explicitly recognize to all the right to water, in accordance with the following principles:

(a) Everyone has the right to water of sufficient quantity and quality for his life and health;

(b) Public authorities should adopt the necessary measures to promote access to water for all and should regulate the actions of the various public or private bodies involved in the management of water supplies;

(c) Within each community with responsibility for water supply, service costs should be shared in such a way that everyone can benefit from the right to water;

(d) In the course of their activities, economic actors and individuals should respect the right to water.

4. A full analysis of those aspects that form part of the rights recognized to every human being should provide a justification for this recommendation. The world already lacks water and, unless legal measures acceptable to all are put in place in order to ensure sound management of what is a common asset, real conflicts will break out between and within societies. The objective of this analysis is to define the right to drinking water, by establishing as closely as possible its relationship to other human rights. The rights mentioned above may be of help to the poor in obtaining access to drinking water in all countries.

5. With regard to the proposed timetable, it is recommended that a preliminary but substantive report should be submitted to the Sub-Commission at its fifty-third session, in 2001, based on the present working paper and taking into account the priorities set by the Sub-Commission. The report would then be the subject of a critical analysis and in-depth discussion by the Sub-Commission that would make it possible to identify the key issues to be considered in a progress report to be submitted to it at its fifty-fourth session, in 2002. The final report would be submitted to it at its fifty-fifth session, in 2003.